

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICHARD GEORGE,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

No. C 07-04673 MHP

MEMORANDUM & ORDER**Re: Motion for Default Judgment**

On September 7, 2007 plaintiff filed a complaint in the Superior Court of California in the County of San Mateo alleging that the Internal Revenue Service (“IRS”) violated certain provisions of the Internal Revenue Code (“IRC”). On September 11, 2007 defendant removed the action to this court. Now before the court is plaintiff’s motion for a default judgment.

“A default judgment may be entered against the United States, its officers, or its agencies only if the claimant establishes a claim or right to relief by evidence that satisfies the court.” Fed. R. Civ. P. 55. This rule aims to protect the American taxpayer. Giampaoli v. Califano, 628 F.2d 1190, 1193–94 (9th Cir. 1980) (“This deference arose from recognition that the government was sometimes slow to respond to a complaint and that the public fisc should be protected against payment of unfounded claims solely because of a failure to respond timely”). Courts favor government defendants who have failed to plead whenever there is any indication that the government desires to respond to or defend the claim. See, e.g., Mason v. Lister, 562 F.2d 343, 345 (5th Cir. 1977).

1 Here, the defendant United States of America was served on or around September 10, 2007.
2 Their response to the complaint was due within sixty days. The government failed to respond within
3 sixty days. However, the government did not abandon the litigation. Indeed, it filed a motion to
4 dismiss on January 15, 2008. In light of the lenient standard set forth above, plaintiff's motion for a
5 default judgment is DENIED.

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7 IT IS SO ORDERED.

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9 Dated: March 18, 2008

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12 MARILYN HALL PATEL
13 United States District Court Judge
14 Northern District of California
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